

# EXHIBIT 1

Docket - No. 99-00884 (W.D.Pa.)

Docket as of October 7, 2002 9:09 pm

Web PACER (v2.4)

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**U.S. District Court****Western District of Pennsylvania (Pittsburgh)****CIVIL DOCKET FOR CASE #: 00-CV-884****DAVIS v. WALTERS, et al**

Filed: 05/08/00

Assigned to: Judge Maurice B. Cohill, Jr.

Referred to: Mag. Judge Kenneth J. Benson

Demand: \$0,000

Nature of Suit: 530

Lead Docket: None

Jurisdiction: Federal Question

Dkt# in other court: None

Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

THOMAS DAVIS  
petitionerTHOMAS DAVIS  
BZ-9982  
[COR LD NTC] [PRO SE]  
SRCF Mercer  
801 Butler Pike  
Mercer, PA 16137

v.

GILBERT A. WALTERS,  
Superintendent  
respondentATTORNEY GENERAL OF  
PENNSYLVANIA  
respondent

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**DOCKET PROCEEDINGS**

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DATE # DOCKET ENTRY

5/8/00 1 MOTION by THOMAS DAVIS to Proceed in Forma Pauperis with Proposed Order. (jsp) [Entry date 05/08/00]

5/8/00 -- PETITION for Writ of Habeas Corpus received from THOMAS DAVIS. (jsp) [Entry date 05/08/00]

5/8/00 -- CASE REFERRED to Mag. Judge Kenneth J. Benson (jsp) [Entry date 05/08/00]

6/21/00 2 REPORT AND RECOMMENDATION of Mag. Judge Kenneth J. Benson signed on 6/2/00 Recommending that petition for writ of habeas corpus be transferred to USCA for 3rd Circuit as an application to file a successive petition pursuant to 28 USC Section 2244 (b)(3) ; The parties have 10 days from the date of service to file objections to this Report and Recommendation. (ces) [Entry date 06/22/00]

6/28/00 3 OBJECTION by THOMAS DAVIS to [2-1] report and recommendations (jsp) [Entry date 06/28/00]

7/21/00 4 MEMORANDUM ORDER that the petition for writ of habeas corpus is transferred to USCA for 3rd Circuit as an application to file a successive petition pursuant to 28 USC Section 2244 forthwith, adopting [2-1] report and recommendations ( signed by Judge Maurice B. Cohill Jr. on 7/21/00 ) CM all parties of record. (ces) [Entry date 07/24/00]

7/25/00 5 NOTICE OF APPEAL by THOMAS DAVIS from [4-1] order dated 7/21/00 (pt) [Entry date 07/25/00]

7/25/00 -- Certified copy of Notice of Appeal [5-1] appeal by THOMAS DAVIS , certified copy of docket, no certified copy of order dated 7/21/2000 (it is with record which is to be forwarded to USCA as instructed by that order), copy of appeal fee letter mailed to USCA; copy of Notice of Appeal and information sheet to M.J. Benson and Judge Cohill. Copy of information sheet to appellant with appeal fee letter. (pt) [Entry date 07/25/00]

7/25/00 -- Transmitted 1st Supplemental Record (Document no. 5) on Appeal: [5-1] appeal by THOMAS DAVIS (Entire record forwarded per order of 7/21/2000.) (pt) [Entry date 07/25/00]

7/27/00 -- RECEIPT from USCA for Actual First Supplemental Record (document no. 5) with one cc. and one uncertified copy of docket entries. (ces) [Entry date 07/28/00]

8/1/00 -- NOTICE of Docketing ROA from USCA Re: [5-1] appeal by THOMAS DAVIS USCA Number: 00-2214 (ces) [Entry date 08/01/00]

8/1/00 6 SERVICE LIST from USCA (ces) [Entry date 08/02/00]

8/4/00 -- Cc. of order dated 7/21/00 mailed to USCA for Third Circuit as transferred together with original received Petition for Writ of Habeas Corpus, cc. of docket entries, copy of ifp motion, and previous Habeas Corpus Petition Case No. 97-629 (docket entries, Petition for Writ of Habeas Corpus and Magt. Judge's Report and Recommendation and Memorandum Order dated 2/12/98). (Other previous habeas corpus petition cases papers not available at this time, but

ordered to USDC for WDPA from Records Center and copies of similar documents will then be forwarded to USCA for 3rd Circuit ( Re: case nos. CA90-915, CA 91-1605 and CA93-1217) (ces) [Entry date 08/04/00]

8/4/00 -- Transmitted 2nd Supplemental Record on Appeal: [5-1] appeal by THOMAS DAVIS (document nos. 1,2,3 and 4) (ces) [Entry date 08/04/00]

8/16/00 -- RECEIPT from USCA for transfer thereto of petition for writ of habeas corpus. (ces) [Entry date 08/16/00]

8/17/00 -- RECEIPT from USCA for actual second supplemental record with one cc. and one uncertified copy of docket entries (document nos. 1 through 4). (ces) [Entry date 08/17/00]

8/25/00 7 CERTIFIED COPY OF ORDER dated 8/23/00 from U.S. Court of Appeals for the Third Circuit directing that motion to proceed in forma pauperis is granted and that appeal will be submitted to panel of this ct. for determination of whether a certificate of appealability should issue. (ces) [Entry date 08/28/00]

4/23/01 8 Certified copy of JUDGMENT dated 4/19/01 issued in lieu of a formal mandate received from USCA re: [5-1] appeal by THOMAS dismissing appeal for lack of jurisdiction. The order of the District Ct., transferring appellant's petition under 28 USC Section 2254 to be treated as an application under 28 USC Section 2244 for permission to file a second or successive section 2254 petition, is not a final, appealable Order. The Clerk is directed to docket the underlying petition separately as an application pursuant to section 2244. If the appellant wishes to argue that the District Ct erred in transferring his petition, he may do so in the context of his section 2244 application. The appellant's motions are denied. (ces) [Entry date 04/24/01]

4/24/01 -- Record on Appeal and supplements returned from U.S. Court of Appeals: [5-1] appeal, including copies of docket entries and appropriate copies previously forwarded from CA97-629, CA90-915, 91-1605, 93-1217) (ces) [Entry date 04/24/01] [Edit date 04/24/01]

7/23/01 -- Case closed (as per oral advice) (ces) [Entry date 07/23/01]

8/23/01 9 CERTIFIED COPY OF ORDER dated 8/21/01 from U.S. Court of Appeals for the Third Circuit directing that Clerk of District Court forward forthwith to Ct. of Appeals the following documents: (1) the docket entries from WDPA No. 97-cv-629; (2) the habeas petition from WDPA No. 97-629 (3) Magistrate Judge's Report and Recommendation for WDPA No. 97-629 and (4) district ct. opinion and or order for WDPA 97-cv-629. It is noted that the District Ct. did forward all other necessary documents. Disposition of the petition is stayed pending receipt of the documents from the District Ct. (ces) [Entry date 08/23/01]

8/29/01 -- Certified and transmitted Record on Appeal to U.S. Court of Appeals as per request of Carolyn Hicks together with original document nos. 1, 15 and 20 from 97-629 as per order from Ct. of Appeals (ces) [Entry date 08/29/01] [Edit date 10/25/01]

9/14/01 -- Record on Appeal (Doc. Nos. 1 thru 8) returned from U.S.

Court of Appeals. Record returned because only copies were needed. (tt) [Entry date 09/14/01]

10/25/01 10 CERTIFIED COPY OF ORDER dated 10/22/01 from U.S. Court of Appeals for the Third Circuit directing that request for authorization to file a second or successive habeas corpus petition is denied because the petitioner's claims do not meet the criteria prescribed by 28 USC Section 2244(b) (2) for issuing such authorization. (ces) [Entry date 10/25/01]

10/31/01 11 Copy of notice to 3rd Circuit Ct. of Appeals from Supreme Ct. of US advising that the petition for writ of certiorari is denied (ces) [Entry date 11/01/01]

9/12/02 12 MOTION by THOMAS DAVIS for Relief from Judgment Order or Proceeding . (jsp) [Entry date 09/12/02]

9/12/02 13 BRIEF by THOMAS DAVIS in support of [12-1] motion for Relief from Judgment Order or Proceeding by THOMAS DAVIS (jsp) [Entry date 09/12/02]

9/16/02 14 ORDER denying [12-1] motion for Relief from Judgment Order or Proceeding for lack of jurisdiction. ( signed by Judge Maurice B. Cohill Jr. on 9/16/02 ) CM all parties of record. (plh) [Entry date 09/16/02]

9/30/02 15 MOTION by THOMAS DAVIS for Reconsideration of [14-1] order . (jsp) [Entry date 09/30/02]

10/7/02 16 ORDER denying [15-1] motion for Reconsideration of [14-1] order ( signed by Judge Maurice B. Cohill Jr. on 10/7/02 ) CM all parties of record. (ces) [Entry date 10/07/02]

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Case Flags:

MAG

CLOSED

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END OF DOCKET: 2:00cv884

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PACER Service Center			
Transaction Receipt			
10/15/2002 11:34:00			
PACER Login:	us5102	Client Code:	
Description:	docket report	Search Criteria:	2:00cv00884
Billable Pages:	4	Cost:	0.28

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## EXHIBIT 2

Docket - No. 00-2214 (3d Cir.)

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## US Court of Appeals for the Third Circuit Case Summary

Court of Appeals Docket #: 00-2214  
Nsuit: 3530 Prisoner: Habeas Corpus  
Davis v. Walters, et al  
Appeal from: U.S. District Court for the Western District of PA

Filed: 7/28/00

## Lower court information:

District: 0315-2 : 00-cv-00884  
Trial Judge: Maurice B. Cohill, Jr., District Judge

2/12/01 Brief in support of the statement of appellate jurisdiction in response to Staff Attorney's letter for possible dismissal due to jurisdictional defect on behalf of Appellant, filed. Certificate of Service dated 2/8/01. (mgd)

4/19/01 ORDER (Sloviter, Barry, Authoring Judge and Ambro, Circuit Judges) Dismissing the foregoing appeal for lack of jurisdiction. The order of the District Court, transferring the appellant's petition under 28 U.S. Section 2254 to be treated as an application under 28 U.S.C. Section 2244 for permission to file a second or successive section 2254 petition is not a final, appealable order. ZZ\_See 28 U.S.C. Section 1291; ZZ\_Cartered ZZ\_Savings ZZ\_Bank, ZZ\_FA ZZ\_v. ZZ\_Shushan, 919 F.2d 225 (3d Cir. 1990). The Clerk is directed to docket the underlying petition separately as an application pursuant to section 2244. If the appellant wishes to argue that the District Court erred in transferring his petition, he may do so in the context of this section 2244 application. The appellant's motions are denied, filed. APS-147 (ch)

4/19/01 Certified copy of order to Lower Court. (ch)

4/19/01 RECORD, RETURNED. (ch)

4/19/01 FIRST SUPPLEMENTAL RECORD, returned. (ch)

4/19/01 SECOND SUPPLEMENTAL RECORD, returned. (ch)

5/29/01 Supreme Court of U.S. notice filed advising petition for writ of certiorari filed by Appellant Thomas Davis. Filed in the Supreme Court on 5/19/01 at Supreme Ct. case number: 00-10172. (ch)

10/3/01 U.S. Supreme Court order dated 10/1/01, at S.C. number 00-10172, denying petition for writ of certiorari by Appellant Thomas Davis, filed. (mgd)

## EXHIBIT 3

Docket - No. 01-1963 (3d Cir. )

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## US Court of Appeals for the Third Circuit Case Summary

Court of Appeals Docket #: 01-1963

Filed: 4/19/01

Nsuit: 0

In Re: Thomas Davis v.

Appeal from: U.S. District Court for the Western District of PA

Lower court information:

District: 0315-2 : 00-cv-00884

Trial Judge: Kenneth J. Benson, Magistrate

8/15/01 Petitioner's Memorandum of Law in support of application to file second/successive petition, filed. (ch)

8/21/01 ORDER (Clerk), It is hereby ordered that the Clerk of the District Court forward forthwith the following documents: 1) the docket entries from 97-cv-629; 2) the habeas petition from 97-cv-629; 3) the magistrate judge's report and recommendation from 97-cv-629 and 4) the district court opinion and/or order from 97-cv-629. Because the documents were not included with the application and are necessary for its determination, the application is deemed lodged with the Court. Disposition of the petition is stayed pending receipt of the documents from the District Court, filed. (ghb)

8/21/01 Certified copy of order to Lower Court. (ghb)

9/10/01 Various documents from the District Court Record received in accordance with Clerk's Order dated 8/21/01, filed. (ch)

9/20/01 Submitted to file second or successive petition, memorandum of law. Coram: Sloviter, Barry & Ambro, Circuit Judges. (ch)

10/22/01 ORDER (Sloviter, Barry & Ambro, Authoring Judge, Circuit Judges) Denying the foregoing request for authorization to file a second or successive habeas corpus petition because the petitioner's claims do not meet the criteria prescribed by 28 U.S.C. Section 2244(b) (2) for issuing such authorization, filed. APS-272 (ch)

10/22/01 Certified copy of order to Lower Court. (ch)

6/12/02 Document titled "Memoranda of Law" by Petitioner treated as a Motion to review the letter dated 5/30/02 by the Senior Legal Advisor to the Clerk, filed. (ch)

8/6/02 ORDER (Sloviter, Barry and Ambro, Authoring Judge, Circuit Judges) denying motion by Petitioner to review the letter dated 5/30/02 by the Senior Legal Advisor to the Clerk, filed. (ch)

## EXHIBIT 4

Clerk's Letter dated 05/30/02

CR

## OFFICE OF THE CLERK

MARCIA M. WALDRON

CLERK

## UNITED STATES COURT OF APPEALS

TELEPHONE

FOR THE THIRD CIRCUIT  
 21400 UNITED STATES COURTHOUSE  
 601 MARKET STREET  
 PHILADELPHIA 19106-1790

215-597-2995

May 30, 2002

Thomas Davis  
 # BZ-9982  
 801 Butler Pike  
 Mercer, PA 16137

In re: Davis  
3<sup>rd</sup> Cir. No. 01-1963

Dear Mr. Davis:

This is to acknowledge receipt of your submission entitled, "Motion for Relief from Judgment or Order." No action may be taken in regard to this submission since further review of the panel's decision in the above-entitled application is precluded by statute.

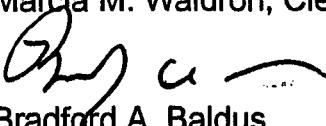
Reconsideration or rehearing of this Court's decision denying authorization to file a second or successive habeas corpus petition is precluded by 28 U.S.C. § 2244(b)(3)(E) which states: "The grant or denial of an authorization to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari."

Aside from the statutory prohibition on further appeal from the Court's decision, Rule 60, Fed. R. Civ. P., which you cite in your submission does not apply to proceedings in this Court. Rule 1, Fed. R. Civ. P. Proceedings in this Court are governed solely by the Federal Rules of Appellate Procedure and this Court's Local Appellate Rules and Internal Operating Procedures. Chapter 11.1.3, Third Circuit Internal Operating Procedures, cited in your cover letter is also inapplicable since you do not have a case pending before this Court and your submission does not concern a situation such as address by that section.

Very truly yours,

Marcia M. Waldron, Clerk

By:



Bradford A. Baldus  
 Senior Legal Advisor to the Clerk

## EXHIBIT 5

Clerk's Letter dated 09/05/02

CP

## OFFICE OF THE CLERK

**MARICIA M. WALDRON**

CLERK

**UNITED STATES COURT OF APPEALS**

FOR THE THIRD CIRCUIT  
 21400 UNITED STATES COURTHOUSE  
 601 MARKET STREET  
 PHILADELPHIA 19106-1790

TELEPHONE

215-597-2995

September 5, 2002

Thomas Davis  
 # BZ-9982  
 801 Butler Pike  
 Mercer, PA 16137

In re: Davis  
3<sup>rd</sup> Cir. No. 01-1963

Dear Mr. Davis:

Your submission to a judge of this Court has been referred to this office for response. No action may be taken in regard to that submission. The proceedings in regard to the above-entitled matter have concluded and no single judge of the Court has authority to intervene in regard to that outcome.

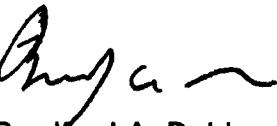
Pursuant to Rule 25, Federal Rules of Appellate Procedure, all requests for relief from the Court, or a judge thereof, are to be submitted to the Clerk. In light of that rule, and because they cannot alter a decision entered by a panel of judges of the Court, judges will not consider or act on submissions sent directly to them.

Your attention is directed to the August 8, 2002 letter of this Court. The Court will not consider any further requests for relief in this matter. That order is binding on all of the judges of the Court and is conclusive. Further submissions in regard to this case will be futile.

Very truly yours,

Marcia M. Waldron, Clerk

By:



Bradford A. Baldus  
 Senior Legal Advisor to the Clerk